

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

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DANIEL LOVELACE and  
HELEN LOVELACE, Individually, and as Parents of  
BRETT LOVELACE, deceased,

Plaintiffs,

Vs.

No. 2:13-cv-02289 SHL - dkv  
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;  
BABU RAO PAIDIPALLI; and  
MARK P. CLEMONS,

Defendants.

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**DEFENDANTS' JOINT MOTION IN LIMINE NO. 6**

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Come now the defendants, Pediatric Anesthesiologists, P.A., Babu Rao Paidipalli, M.D., and Mark P. Clemons, M.D., by and through counsel of record, and move this Court in limine to exclude and disallow any testimony of hypothetical questions to experts regarding the standard of care with the additional knowledge of the outcome in this case. Further, questions about what the standard of care may require in 2015 should be excluded since the only relevant time period is 2012. To ask the experts any questions premised on the outcome is irrelevant, inaccurate, unfair, misleading, confusing to the jury and unduly prejudicial to Defendants and should be prohibited. Fed. R. Evid. 401, 402, and 403. The practice of medicine is not retrospective, and Defendants are entitled to be judged by the facts and circumstances appearing at the time. For the same reasons, as the practice of medicine evolves, the recognized standard of professional practice in 2015 is irrelevant to the standard of care in 2012 and present tense questions regarding the standard of care should be prohibited.

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**CERTIFICATE OF CONSULTATION**

Pursuant to Local Rule 7.2(a)(1)(B), I hereby certify that on January 6<sup>th</sup>, 2015, counsel for defendants, Babu Rao Paidipalli and Pediatric Anesthesiologists, P.A., consulted with Mark Ledbetter, counsel for plaintiffs, Daniel and Helen Lovelace, via e-mail concerning the contents of this motion, and that all counsel are unable to reach an accord as to all issues pertaining to this motion.

s/W. Bradley Gilmer  
W. BRADLEY GILMER

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing has been served via U.S. Mail to all counsel of record identified below:

Mark Ledbetter, Esq.  
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this 6th day of January, 2015.

s/ W. Bradley Gilmer  
W. BRADLEY GILMER